Good Morning. My name is William Lupien. I am the Chairman and founder of OptiMark Technologies, Inc., a developer of advanced electronic trading systems, headquartered in Jersey City, NJ. OptiMark's patented trading system is currently in operation on the Pacific Exchange, and will be introduced as the central electronic order matching facility of the Nasdaq Stock Market in the third quarter of this year. OptiMark is currently under contract to deliver its technology to securities markets in Canada and Japan. I have been active in the securities industry for over 35 years. I was a specialist on the trading floor of the Pacific Stock Exchange for 17 years, I was instrumental in the design of the world's first electronic trading system, called SCOREX, in 1968, and as a Director of the Pacific Exchange, I was actively involved in the design of Intermarket Trading System, linking the Nation's securities exchanges electronically, between 1976 and 1978. From 1983 to 1988, I was President, then Chairman of Instinet Corporation, the dominant electronic trading network in the world today.

I would like to thank Chairman Baker and the Members of the Subcommittee for inviting me to participate in today's discussions. Continued economic expansion, capital formation and the impact of technology have led to the most dynamic landscape that domestic and global markets have ever experienced. Striking the right balance between regulation and free-market economics is critical to the long-term prosperity and global dominance our capital markets have historically enjoyed. Today I will touch on that rate of change and the role I believe regulation can play to ensure enhanced capital formation, fairness in use, and the highest levels of investor protection.

Technology is changing today's capital markets at the speed of light; figuratively and literally. As quickly as new fiber optic lines are laid, innovations in trading technology are changing the way buyers and sellers come together, changing the role and importance of financial intermediaries, and improving the direct access that investors have to the market. The Internet has made on-line trading a reality for millions of Americans. Five years ago, very few people had heard of the Internet, much less used it. Today, it is estimated that over 25% of retail order flow reaches the market via the Internet. In the same way that business people, students and government employees use email and the Internet as cornerstones of their daily lives, so too are we witnessing a transformation in the access to, and executions in, the capital markets, both at home and abroad.

The speed at which U.S. Broker Dealers are implementing new online trading services provides us proof enough that direct connections from the user straight through to settlement of a transaction will be the standard in the very near future. Before long, such "Straight Through Processing" will provide trade entry, execution, settlement and clearing within a matter of seconds, reducing systemic credit risk and enhancing market liquidity. The amount of information flowing to the user has also increased dramatically, and new applications are being developed every day to help investors distill, integrate and utilize that information to drive investment decisions.

Low-cost access to market liquidity and information has actually reduced the barriers to competition which the established exchanges and market centers had once enjoyed. We see this domestically with the rising number of so-called "Alternative Trading Systems", and the electronic linking of oncemarginal regional exchanges into consolidated trading blocks, particularly in Europe. The European markets enjoy an aggressive regulatory approach to the use of technology, and are already making moves toward global alliances to trade securities on a unified technological platform around the world, 24 hours a day. Several foreign securities exchanges have de-mutualized in recent years, to the empirical benefit of their shareholders and the capital markets. This Tuesday, the SEC approved the limited U.S. operation of a U.K.-based electronic stock trading system, called Tradepoint. On the Tuesday prior, the CFTC proposed new rules that would allow foreign futures exchanges to place electronic trading terminals in the U.S. It is against this backdrop that the U.S. capital markets will compete for market share in the global economy. If our regulatory principles and mandates are forward-thinking and progressive we will help define the direction and nature of these global electronic markets. If not, we will be outmaneuvered by overseas competition, and be forced to compete on the grounds of restrictive and protectionist policy.

There will always be a tension - and I would argue –a healthy tension, between the objectives of innovation and regulation. Regulation, based largely on statutory precedent, is by definition, retrospective. Innovation, by contrast, is prospective, forward-looking. This structural conflict has often served to impede innovation in the securities market. I would suggest to this Subcommittee that our Regulators be encouraged to act with foresight, flexibility and speed in achieving regulatory objectives. This will lead to higher levels of service, lower costs, and the ability to compete internationally.

Innovation has been a defining characteristic of American success. In the 1975 Amendments to the Securities Exchange Act, Congress directed the SEC to take a more active role in the regulation of new and innovative developments in the securities industry. During the past 25 years the SEC has become much more involved in every aspect of securities trading. This approach, however well intentioned, has at times served to restrict innovation and market development.

Last December, however, the SEC issued a new regulatory directive, addressing many of the issues surrounding electronic trading and the need to modernize our market infrastructures and promote innovation. "Regulation ATS", as it is known, provides for de-mutualized exchange governance, multi-tiered regulatory environments for electronic markets, and perhaps most significantly, grants exchanges the ability to develop and deploy Pilot electronic systems without first obtaining Commission approval. Regulation ATS is the most significant and positive piece of regulatory structure promulgated in recent years.

But directives and rule-making by Government agencies alone may not be sufficient to ensure the competitive success of our capital markets. We need to ensure that regulation and rule making address the needs of issuers, investors and competitive market structure, not the parochial interests and commercial concerns of a privileged few. Established institutions in the securities industry have regularly and effectively used existing regulation to stifle innovation and competition. A relevant and compelling example is provided by the recent experiences of my company, OptiMark Technologies. The OptiMark Trading System is an innovative approach to matching the interests of buyers and sellers, utilizing supercomputers and advanced mathematical algorithms. The OptiMark System was designed to integrate with existing market structures and is deployed as a Facility of its exchange partners.

The SEC approved the Pacific Exchange's application to utilize the OptiMark Trading System in an unprecedented 67-page order, which the Commission delivered in 3 months from the date of filing. This order clearly defined the Commission's strong support of market-structure innovation through the use of technology. Despite the SEC's strong support of the PCX's intentions, the Exchange became embroiled in a 15 month debate on how and indeed whether, the Nation's other securities markets would allow this innovative technology to integrate with the National Market System. The cost of these delays alone exceeded $20 million. While OptiMark had adequate reserves to weather these delays, revolving around competitive exchange access issues, many similar innovators have neither the resources nor the stamina to endure similar quasi-regulatory roadblocks.

In conclusion, our markets are undergoing an unprecedented period of transition, brought about by advances in technology and communications. Today, the U.S. financial markets may well be the envy of the world, and I believe this is in large measure due to the foresight of the framers of the 1934 Securities Act and the 1975 Amendments to that Act. As we move into an environment of global electronic marketplaces, featuring direct investor access, the nature and role of the regulatory process is critical. We need to ensure that investors have the highest levels of protection, while facilitating innovation and improvement of market structures through the use of technology. While care must be taken to prevent abuse stemming from such innovation, it is equally important that we implement thoughtful regulation, so that our fear of abuse does not hamper success.